

REMARKS

Claims 1-10 and 12-54 are pending in the application.

Claim 1 is amended to incorporate the subject matter of Claim 11, now canceled, and to recite “and wherein a compounding ratio between the block polyester and the amorphous polyester is in the range of 5:95 to 20:80 in weight ratio.” Support can be found, for example, in original Claim 20 and at page 58, first full paragraph and page 96, Example 1 of the specification as originally filed. No new matter is added. Claim 20 has been amended to conform to the amendment to Claim 1.

Entry of the Amendment along with reconsideration and review of the claims on the merits are respectfully requested.

Response to Claim Rejection - 35 U.S.C. § 112

Claims 41-54 are rejected under 35 U.S.C. § 112, second paragraph, as assertedly being indefinite. The Examiner asserts that Claim 41 does not positively recite that the toner of Claim 1 must be present in the fixing device. The Examiner deems “for fixing” as intended use and suggests that the fixing device include the toner with the language “which comprises”.

Without conceding the merits of the rejection, Applicants amend Claim 41 to recite “A fixing device which fixes ~~for fixing~~ the toner claimed in claim 1 onto a recording medium.” Claim 41 more clearly satisfies the requirements of 35 U.S.C. § 112, second paragraph.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the indefiniteness rejection.

Response to Claim Rejections - 35 U.S.C. § 103

Claims 1-54 are rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over each of Wilson (U.S. Patent No. 5,147,747), Matsubara (U.S. Patent No. 4,940,644), and O'Malley (U.S. Patent No. 3,967,962).

The Examiner cites Wilson, Matsubara, and O'Malley as each teaching block polyester resins for toners and related improved fixing applications. Wilson, Matsubara, and O'Malley each assertedly teach adjustability dependent on the crystalline and amorphous portion of the block polymers, and the Examiner asserts that it would have assertedly been obvious to one of ordinary skill in the art to use art recognized variants of the block polyester resin in well known toner applications because of the direct suggestion of each of Wilson, Matsubara, and O'Malley and the expectation of similar results due to the known effect of polyester resins used in similar toners.

Applicants respond as follows.

Claim 1 is amended as previously noted.

Each of the references to Wilson, Matsubara, and O'Malley fails to render obvious the present invention which is distinguishable from the disclosures of each of Wilson, Matsubara and O'Malley.

The present invention requires that that the melting point of the block polyester is 190°C or higher and that a compounding ratio between the block polyester and the amorphous polyester is in the range of 5:95 to 20:80 in weight ratio. By using such a polyester-based resin containing the block polyester having the above melting point and having the compounding ratio between the block polyester and the amorphous polyester mentioned above, it is possible for a resultant

toner to simultaneously exhibit the advantages of both the block polyester and the amorphous polyester. That is, such a toner can have high mechanical strength (sufficient physical stability) due to the block polyester and exhibit a sufficient fixing property (fixing strength) due to the amorphous polyester over a wide temperature range. In particular, the melting point of the amorphous polyester is normally lower than that of the block polyester. Therefore, by incorporating such an amorphous polyester with the compounding ratio mentioned above, the above effect becomes more conspicuous, and thus a synergistic effect can be obtained.

In contrast, none of the cited references discloses or teaches such combined features of the amended Claim 1. Furthermore, the cited references fail to disclose or suggest a polyester-based resin which comprises a block polyester composed of a block copolymer and amorphous polyester having a crystallinity lower than that of the block polyester, wherein the block polyester comprises a crystalline block and an amorphous block having crystallinity lower than that of the crystalline block, and inclusion of the amorphous block in the block polyester makes it possible to improve compatibility or dispersibility between the block polyester and the amorphous polyester.

For the reasons stated in the above, Applicants submit that the cited references would not have been rendered *prima facie* obvious from the cited references.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a).

Response to Double Patenting Rejection

Claims 1-54 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as assertedly being unpatentable over claims 1-65 and 1-61 of copending Application No. 10/687,968 and 10/687,929, respectively. Although the conflicting claims are not identical, the Examiner asserts that they are not patentably distinct from each other because similar block polyesters are used for same toner applications.

Without conceding the merit of the provisional double patenting rejection, Applicants respond by concurrently filing a terminal disclaimer, which disclaims the terminal part of any patent granted on the present application which would extend beyond the expiration of the full statutory term of any patent granted on the '968 and '929 applications.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the provisional double patenting rejection.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No.: 10/687,966

Atty. Docket No. Q78048

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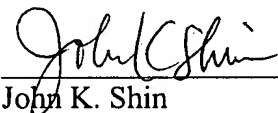
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